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case a recovery without showing special injury, a minimum lump sum, and increased damages dependent upon culpability look toward a penalty. But courts divide as to whether the statute is penal within the meaning of private international law. Some confine penal to the strictly criminal aspect or to where its characteristics, punishment, etc., predominate. *Huntington v. Attrill*, 146 U. S. 657, 13 Sup. Ct. Rep. 224; *Straut v. Yazoo, etc. R. Co.*, 209 Fed. 157, 126 C. C. A. 105; *Hill v. Boston, etc. R. Co.*, 77 N. H. 151, 89 Atl. 482; *Malloy v. Amer. Hide & Leather Co.*, 148 Fed. 482; *Knight v. Ry. Co.*, 108 Pa. 250; *Louisville, etc. R. Co. v. McCaskell*, 98 Miss. 20, 53 So. 348; *Gullege Bros. Lumber Co. v. Wenatchee Lane Co.*, 122 Minn. 266, 142 N. W. 305; *Chesapeake, etc. R. Co. v. Amer. Exch. Bank*, 92 Va. 495, 23 S. E. 935; *Whillow v. Nashville R. R. Co.*, 114 Tenn. 344, 84 S. W. 618; *Boyce v. Wabash R. Co.*, 63 Ia. 70, 18 N. W. 673; *San Louis Obispo v. Hendricks*, 71 Cal. 242, 11 Pac. 682. Others construe any statute penal which is not predominately compensatory. *Christilly v. Warner*, 87 Conn. 461, 88 Atl. 711; *Adams v. Fitchburg R. R. Co.*, 67 Vt. 76, 30 Atl. 687; *Raisor v. V. C. & A. Ry. Co.*, 215 Ill. 47, 74 N. E. 69; *Dale v. Atchison, etc. R. Co.*, 57 Kans. 601, 47 Pac. 521; but see *Battese v. Union Pac. R. Co.*, 170 Pac. 811; *O'Reilly v. N. Y. & N. E. R. Co.*, 16 R. I. 388, 17 Atl. 906; but see *Gardner v. N. Y. & N. E. Ry. Co.*, 17 R. I. 790, 24 Atl. 831; *Plymouth First Nat. Bank v. Price*, 33 Md. 487. The act in question has been variously construed. See cases cited *supra*. It is submitted that the principal reasons sustaining the latter view are formal rather than substantial. That the only action for death at common law was criminal has made difficult the recognition of the above recovery as a tort action. See 21 HARV. L. REV. 383, 386; but despite penal earmarks its essence is tort compensation as the historical analysis by the court shows. *Loucks v. Standard Oil Co. of N. Y.*, *supra*, 199. The contention that it is against the public policy of the trial state more often appears as an excuse than a reason. It has been argued that the trial state is bound by the highest decision of the enacting state; but this is not so, since the matter is purely one of the law of the forum. See *Huntington v. Attrill, supra*, 669, 683. See also WESTLAKE, PRIVATE INTERNATIONAL LAW, 5 ed., 318 b. Note also that while some state courts have assumed that Massachusetts has settled that this is a penal statute, the Massachusetts court leaves the matter open. *Boott Mills v. B. & R. R. Co.*, 218 Mass. 582, 592, 106 N. E. 680.

CONSTITUTIONAL LAW — DUE PROCESS — PROHIBITION OF MAKING HANDING OVER TIPS A CONDITION OF EMPLOYMENT. — A state statute made it a misdemeanor for an employer to require his employee to hand over tips in consideration, or as a condition, of employment. *Held*, that the statute was in violation of the due process clause of the Fourteenth Amendment. *Ex parte Farb*, 174 Pac. 320 (Cal.).

As under the present statute the employer and employee cannot contract freely, it must be justified under the police power. *Bailey v. Alabama*, 219 U. S. 219, 31 Sup. Ct. Rep. 145. See 28 HARV. L. REV. 496. To keep the public in ignorance, when knowledge would undoubtedly cause tipping to cease, is fraud, and as such subject to regulation or prohibition. *Plumbley v. Mass.*, 155 U. S. 461, 15 Sup. Ct. Rep. 154; *Powell v. Penn.*, 127 U. S. 678; *Burdick v. People*, 149 Ill. 600, 36 N. E. 948. See 31 HARV. L. REV. 490. Such legislation, if it tends to the result desired, will be overthrown, only when utterly unreasonable. *Otis v. Parker*, 187 U. S. 606, 23 Sup. Ct. Rep. 168; *McLean v. Arkansas*, 211 U. S. 539, 547, 29 Sup. Ct. Rep. 206, 208; *Rast v. Denman*, 240 U. S. 342, 357, 36 Sup. Ct. Rep. 370, 374. However, the principal case presents a new criterion, namely, reasonable regulation, where practicable, is the only method by which incidental evils of legitimate business may be overcome. Under this rule it seems that a different result would have been reached in the following cases. *Otis v. Parker, supra*; *Powell v. Penn.*,

*supra*. Salutory legislation would therefore be defeated in many cases, and so it is submitted that possible regulation should only be a circumstance in determining whether the legislature acted reasonably.

CONTEMPT OF COURT — CONSTRUCTIVE CONTEMPT — BRINGING PRESSURE TO BEAR ON ATTORNEY. — In a suit for divorce, the plaintiff's father wrote a letter to the defendant urging him to withdraw his defense, and he personally threatened to bring political pressure to bear on defendant's attorney provided he did not withdraw from the case. *Held*, that these acts constituted contempt of court. *In re Bowers*, 104 Atl. 106 (N. J.).

The commonest kind of contempt occurring outside the court room is that which impedes the court in reaching a result in accord with the rules and principles of law. Thus publication of proceedings may so arouse the community, including witnesses, counsel, and jurors, as to make calm judgment difficult. *Globe Newspaper Co. v. Commonwealth*, 188 Mass. 449, 74 N. E. 682. See 28 HARV. L. REV. 605. This may be the effect, even though the matter published be true; hence truth is no defense. *Hughes v. Territory*, 10 Ariz. 119, 85 Pac. 1058; *People v. News-Times Pub. Co.*, 35 Colo. 253, 84 Pac. 912. But truth may be considered in mitigation of punishment. *Globe Newspaper Co. v. Commonwealth*, *supra*. Within the same principle comes arrest of witness. *Smith v. Jones*, 76 Me. 138. Also writing letters to influence witness. *Welby v. Still*, 66 L. T. Rep. (N. S.) 523. Assault on a witness who has testified would seem to be contempt, since general security of witnesses, after as well as during the trial, is essential to freedom in testifying. *Brannon v. Commonwealth*, 262 Ky. 350, 172 S. W. 703. So concealing or tampering with evidence. *Commonwealth v. Braynard*, Thach. Crim. Cas. (Mass.) 146. The principal case is a new and novel example of this sort of contempt of court. To force an attorney to withdraw from a cause would deprive the court as well as the party of the services of an officer, and would obviously tend to an incomplete presentation of the case for one of the parties. This would obstruct the court in applying accurately its rules and principles. For a general discussion of the subject, see Beale, "Contempt of Court, Criminal and Civil," 21 HARV. L. REV. 161.

DEEDS — CONSTRUCTION AND OPERATION — LAKE AS A BOUNDARY. — A conveyed land to B. The deed described a boundary as "along said road and lake." The road bordered on the lake, which was not navigable. *Held*, the deed conveys title to the land under the lake to the center thereof. *Land & Lake Association v. Conklin*, 170 N. Y. Supp. 427 (App. Div.).

If the fee in a highway is in the abutting owners subject to a public easement, a conveyance describing land as "along said road" *prima facie* conveys to the center thereof. *Peck v. Denniston*, 121 Mass. 17; *Columbus Ry. Co. v. Witherow*, 82 Ala. 190, 3 So. 23. Cf. *Thomas v. Hunt*, 134 Mo. 392, 35 S. W. 581; *In re Ladue*, 118 N. Y. 213, 23 N. E. 465. A deed of land "along a lake" conveys, *prima facie*, the bed thereof as far as the grantor owns. *Gouverneur v. National Ice Co.*, 134 N. Y. 355, 31 N. E. 865; *Lembeck v. Nye*, 47 Ohio St. 336. Cf. *Brophy v. Richeson*, 137 Ind. 114, 36 N. E. 424. Literal construction, therefore, of a deed "along said road and lake" is impossible. But construing it against the grantor, as is the rule, the deed would be interpreted as if it read "along said lake." *Lake Erie & W. R. Co. v. Whitham*, 155 Ill. 514, 40 N. E. 1014. Thus the question is raised as to how far titles of owners of land bordering on lakes extend. In some jurisdictions the state holds the title to lake beds so that the public may enjoy the boating and fishing. *Wright v. Council Bluffs*, 130 Iowa, 274, 104 N. W. 492; *Dolbeer v. Suncook, etc. Co.*, 72 N. H. 562, 58 Atl. 504. Cf. *Paine v. Woods*, 108 Mass. 160. In some, riparian owners hold title to the beds. *Glasscock v. National Box Co.*, 104 Ark. 154, 148 S. W.